

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Kevin Turner and Shawn Wooden,
*on behalf of themselves and
others similarly situated,*
Plaintiffs,

v.

National Football League and
NFL Properties, LLC,
successor-in-interest to
NFL Properties, Inc.,
Defendants.

THIS DOCUMENT RELATES TO:
ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

CIVIL ACTION NO: 14-00029-AB

BAP ADMINISTRATOR STATUS REPORT – 1ST QUARTER 2019

1. Garretson Resolution Group (“GRG”) serves as the Baseline Assessment Program (BAP) Administrator for the Settlement program in the above-captioned action.¹ Since its appointment by the Court to serve in this role, GRG has worked diligently with the Parties to meet its responsibilities under the Settlement Agreement. GRG submits this Status Report to provide an update to the Court on the status of GRG’s work administering the BAP.

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Settlement Agreement.

Maintaining the Qualified BAP Provider Network

2. As the BAP Administrator, GRG is responsible for establishing and maintaining a network of Qualified BAP Providers to administer the specified baseline assessment examinations under the BAP and authorized medical services under the BAP Supplemental Benefits program.

3. As of February 13, 2019, GRG has contracted with 325 Qualified BAP Providers in fifty-two cities across the United States. GRG is seeking the participation of an additional eighty neurologists and clinical neuropsychologists, including:

- a. fifty-five providers who have been approved for participation by Co-Lead Class Counsel and Counsel for the NFL Parties and are now in the contracting process; and
- b. twenty-five providers who are being vetted for participation by Co-Lead Class Counsel and Counsel for the NFL Parties.

4. GRG is continuing its efforts to enroll Qualified BAP Providers to expand the BAP network wherever necessary to ensure sufficient depth of coverage and improve the efficiency of this program. For cities without a sufficient number of contracted Qualified BAP Providers to fully meet demand, GRG is seeking alternate arrangements to ensure timely appointments for Retired NFL Football Players, including offering appointments in nearby cities and bringing in Qualified BAP Providers from other cities to administer baseline assessment examinations.

Deadline to Take Baseline Assessment Examination

5. Section 5.3 of the Settlement Agreement establishes the deadline for Retired NFL Football Players to take their baseline assessment examinations.

- a. For Retired NFL Football Players born on or before June 6, 1974, the deadline is June 6, 2019.

- b. For those born after June 6, 1974, the deadline is the earlier of the Retired NFL Football Player's 45th birthday or June 7, 2027.

Co-Lead Class Counsel and Counsel for the NFL Parties have agreed that a Retired NFL Football Player subject to the June 6, 2019 deadline will be deemed to have taken a timely baseline assessment examination if he or his attorney contacts GRG to request his baseline assessment examination by that date. Co-Lead Class Counsel and Counsel for the NFL Parties may consider a similar exception for those Retired NFL Football Players whose deadline falls shortly after June 6, 2019, based on the volume of appointments scheduled by GRG. To ensure adequate and sufficient notice, GRG worked with the Claims Administrator to inform Retired NFL Football Players and their attorneys of this agreement through monthly newsletters distributed by the Claims Administrator in October, November, and December, 2018. The Claims Administrator also updated the "Frequently Asked Questions" section of the Settlement Website with this information.

Baseline Assessment Examinations Scheduled and Attended to Date

6. The BAP offers a two-part baseline assessment examination, consisting of a clinical neuropsychology appointment lasting an average of six to eight hours and a basic neurological examination lasting approximately one hour. GRG's scheduling process is intended to ensure that Retired NFL Football Players are scheduled at a provider location, date, and time acceptable and convenient to them. Typically, GRG attempts to schedule the clinical neuropsychology appointment so that it occurs first, and far enough in advance of the neurology appointment that the clinical neuropsychologist's report is available for review during the neurology appointment.

7. As of February 13, 2019, the Claims Administrator has determined that 12,828 Retired NFL Football Players are eligible for participation in the BAP². Of these individuals, GRG has received requests to schedule baseline assessment examinations from 5,398 Retired NFL Football Players directly or through their attorneys. This represents 42% of BAP-eligible Retired NFL Football Players.

8. Of the 5,398 Retired NFL Football Players who have requested appointments, GRG has offered one or more appointments with Qualified BAP Providers to 5,310 of them (98.4%). Retired NFL Football Players who have requested appointments have waited a median time of 19 days until GRG secured and offered a neuropsychology appointment (consisting of a specific date, time, and location) from a Qualified BAP Provider neuropsychologist. To ensure the neuropsychology appointment takes place before the neurology appointment, GRG seeks to confirm with the Retired NFL Football Player or his attorney that the Retired NFL Football Player accepts the offered neuropsychology appointment before securing a neurology appointment. As a result, the median time between the initial offer of a neuropsychology appointment and the initial offer of a neurology appointment is 40 days. Median time from the initial request until the actual neuropsychology appointment is 108 days; the median time from request until the neurology appointment is 166 days. Table 1 summarizes wait times as of February 13, 2019.

Table 1. Appointment Scheduling Wait Times

Metric	Median in Days
Time from request to offered neuropsychology appointment	19
Time from request to offered neurology appointment	59
Time from request to neuropsychology appointment date	108
Time from request to neurology appointment date	166

² This includes eight Retired NFL Football Players notified of their eligibility by the Claims Administrator on January 30, 2019, following a change in the method the Claims Administrator uses to calculate half an eligible season.

9. As of February 13, 2019, 4,438 Retired NFL Football Players (82.2% of those who have requested appointments) have attended a total of 8,383 appointments. This number consists of 3,773 Retired NFL Football Players (69.9%) who have attended two or more³ appointments and 665 Retired NFL Football Players (12.3%) who have attended one appointment.

10. Of the 5,310 Retired NFL Football Players for whom GRG has scheduled or offered one or more appointments, 4,814 (89.2% of those who have requested appointments) currently have one or more appointments scheduled (including appointments that have already taken place). Of the 4,814 Retired NFL Football Players with scheduled appointments, 4,239 (78.5% of all who have requested) have been scheduled for both neuropsychology and neurology appointments, and 575 (10.7% of all who have requested) have been scheduled for one appointment. For the latter group, GRG is working to promptly schedule these Retired NFL Football Players' second appointment.

11. Of the 5,310 Retired NFL Football Players for whom GRG has scheduled or offered one or more appointments, 496 have had at least one appointment scheduled or offered to them in the past but did not accept or attend. These 496 Retired NFL Football Players have had a total of 1,867 rejected, cancelled, or missed appointments (an average of 3.8 each). Table 2 breaks down the reasons and sources of those cancellations.

Table 2. Cancellation Reasons – Players with No Active Appointments

Cancellation Reason	Source		
	Player	Provider	Administrator
Confirmed, then Cancelled	18.4%	5.0%	0.7%
Rejected or Withdrawn	55.3%	8.9%	5.2%
Missed	6.5%	0.0%	0.0%

³ Certain Retired NFL Football Players have attended more than two appointments because they and/or the Qualified BAP Providers have requested to break up the clinical neuropsychology appointments, which GRG has accommodated.

Roughly half of these Retired NFL Football Players reside in or near ten cities – Atlanta, Dallas, Houston, New Orleans, Los Angeles, Phoenix, Miami, Jacksonville, Charlotte, and Tampa – all of which are among the cities with the highest populations of Retired NFL Football Players. The median time from request to clinical neuropsychology appointment offered in these cities ranges from seven days in Miami and Houston to 95 days in New Orleans, with an average of 29 days.⁴ In all such cases, GRG is continuing to work with Qualified BAP Providers, and Retired NFL Football Players or their attorneys, to ensure Retired NFL Football Players receive appointments that meet their preference for location, provider, and schedule, while accommodating the Qualified BAP Providers' schedules.

12. Finally, 88 (1.6%) Retired NFL Football Players have requested baseline assessment examinations but have not yet had appointments scheduled or offered to them. These Retired NFL Football Players are scattered among 33 cities; the median time they have been waiting since requesting their baseline assessment examination is 36 days. GRG continues to work to secure appointments for these Retired NFL Football Players and will continue to update its progress accordingly. Table 3 summarizes Retired NFL Football Players with requests and appointments scheduled through February 13, 2019.

⁴ In addition to continuing to seek the participation of more Qualified BAP Providers in New Orleans, GRG is bringing in Qualified BAP Providers from other cities to supplement provider capacity.

Table 3. Summary of Requests and Scheduling Activity to Date

Status	Number	% of Requested
Players requesting participation in BAP	5,398	100.0%
Players offered one or more appointments	5,310	98.4%
Players with two appointments currently scheduled	4,239	78.5%
Players with one appointment currently scheduled	575	10.7%
Players with appointments previously offered but none attended or currently scheduled	496	9.2%
Players waiting on first offered appointment	88	1.6%

Note: Indented rows are subsets of rows above.

Reimbursements Paid to Qualified BAP Providers for Baseline Assessment Examinations

13. Included in GRG's declaration to the Court in conjunction with the Fairness Hearing held on November 19, 2014, were cost projections for reimbursements to be paid to Qualified BAP Providers following baseline assessment examinations. Reimbursements for both clinical neuropsychology and neurology appointments have come in below original projections. See Table 4 for provider reimbursement details through February 13, 2019.

Table 4. Provider Reimbursements Since Inception of BAP

Metric	Neuropsychology	Neurology	Total
Projected costs per appointment - 2014	\$2,746.68	\$605.30	\$3,312.06
Actual costs per appointment	\$2,596.19	\$547.48	\$3,143.67
Appointments reimbursed	3,889	3,068	6,957
Total Qualified BAP Provider payments	\$10,096,568	\$1,679,669	\$11,776,237

Providing Reports from Baseline Assessment Examinations

14. As part of its efforts to ensure prompt and accurate production of medical records and reports, GRG conducts training sessions and offers guidance materials to each Qualified BAP

Provider. GRG is also in regular contact with Qualified BAP Providers as questions or issues arise that may slow the production of medical records and reports. Importantly, to provide incentives for Qualified BAP Providers to submit medical records and reports in a timely manner, GRG included a provision in all of its Qualified BAP Provider contracts that makes provider payment contingent on the Qualified BAP Providers submitting such documents.

15. Since inception of the BAP, GRG has received BAP-generated medical records and reports from at least one specialist (neurologist or clinical neuropsychologist) for 4,156 Retired NFL Football Players, including records and reports from both specialists for 3,048 Retired NFL Football Players, and records from one specialist for 1,108 Retired NFL Football Players.

16. After GRG receives the medical records and reports, GRG reviews them for accuracy and completion, particularly against the requirements of the Settlement Agreement.

17. When either the records or reports are incomplete, GRG works with the Qualified BAP Provider to ensure completion. The most common reasons for such follow-ups with providers include:

- a. failure to clearly state what, if any, Neurocognitive Impairment level the Retired NFL Football Player qualified for, as defined by the Settlement Agreement;
- b. omission of references to corroborating evidence, as required for diagnosing Level 1.5 Neurocognitive Impairment or Level 2 Neurocognitive Impairment under the Settlement;
- c. failure to adequately address test validity and/or functional impairment, two topics required to be reported by clinical neuropsychologists as part of their reports; and

d. failure to meet other administrative requirements as articulated in the Clinician's Interpretation Guide promulgated pursuant to Exhibit A-2 of the Settlement Agreement.

18. Of the 3,048 Retired NFL Football Players for whom both reports have been submitted by Qualified BAP Providers, GRG has completed its review process for 2,360 and has published them (or is in the process of publishing them) to the Retired NFL Football Player's online portal. Table 5 shows the status for Retired NFL Football Players whose reports have been submitted to GRG as of February 13, 2019.

Table 5. BAP Report Review Status

Status	Number	% of Players with Both Appts Attended
Players who have attended both appointments	3,773	100%
Players with both reports submitted to GRG	3,048	81%
Players with review completed and approved to publish to portal	2,360	63%
Players with reports undergoing initial review	33	1%
Players with reports in follow up status with Qualified BAP Providers	638	17%
Players with reports forwarded to Appeals Advisory Panel due to conflicting diagnoses between Qualified BAP Providers (per the Settlement Agreement)	17	<1%

Note: Indented rows are subsets of rows above.

19. As of February 13, 2019, BAP examinations have resulted in 76 diagnoses of Level 1 Neurocognitive Impairment, 87 diagnoses of Level 1.5 Neurocognitive Impairment, 55 diagnoses of Level 2 Neurocognitive Impairment, with 2,142 Retired NFL Football Players receiving no diagnosis.

BAP Supplemental Benefits

20. Under the Settlement Agreement, a Retired NFL Football Player diagnosed with Level 1 Neurocognitive Impairment is eligible to receive BAP Supplemental Benefits related to the Retired NFL Football Player's impairment in the form of medical treatment, counseling, and/or examination by Qualified BAP Providers including pharmaceuticals if medically appropriate and prescribed by a Qualified BAP Provider.

21. The Settlement Agreement required Co-Lead Class Counsel and Counsel for the NFL Parties, in consultation with the BAP Administrator, to establish the maximum per-player benefit under the BAP Supplemental Benefits on the first anniversary of the commencement of the BAP. Accordingly, on June 6, 2018 (the first anniversary of the commencement of the BAP), Co-Lead Class Counsel and Counsel for the NFL Parties, in consultation with the BAP Administrator, established the maximum per-player benefit under the BAP Supplemental Benefits at \$35,000. Given the number of Retired NFL Football Players currently eligible for the BAP, this amount was determined to be the maximum benefit that will ensure sufficient funds to pay for all possible baseline assessment examinations, which in turn ensures the overall sufficiency of the BAP Fund. Co-Lead Class Counsel and Counsel for the NFL Parties have agreed to revisit this amount after June 6, 2019, the date when eligibility for baseline assessment examinations expires for Retired NFL Football Players born on or before June 6, 1974.

22. Once a Retired NFL Football Player's diagnosis of Level 1 Neurocognitive Impairment is finalized, GRG contacts the Retired NFL Football Player (or, in the case of a represented Retired NFL Football Player, his attorney) to inform him of his eligibility and schedule an orientation. Given that Retired NFL Football Players eligible for the BAP Supplemental Benefits suffer from moderate cognitive impairment, GRG seeks to include a family member or close friend of the Retired NFL Football Player during scheduling who can help the Retired NFL

Football Player maximize program benefits. During this orientation, GRG outlines the benefits offered and solicits the Retired NFL Football Player's choice of a Qualified BAP Provider neurologist to perform an initial consultation. The purpose of the initial consultation is to review the results of the baseline assessment examination and determine a treatment and evaluation plan for the Retired NFL Football Player. Table 6 show the status of Retired NFL Football Players who have been notified of their eligibility for participation in the BAP Supplemental Benefits.


Table 6. BAP Supplemental Benefits Participation Status

Status	Number
Retired Players/Attorneys notified of BAP Supplemental Benefits eligibility	55
Awaiting attorney response to schedule orientation	5
Retired Players in scheduling process for orientations	3
Retired Players with upcoming orientations scheduled	2
Retired Players with orientation complete	45
Awaiting provider selection by Retired Player	13
Contracting with selected provider	5
In process of scheduling initial consultation	3
Initial consultation upcoming	9
Initial consultation attended/receiving ongoing benefit	15

Note: Indented rows are subsets of rows above.

Respectfully submitted,

BAP ADMINISTRATOR

By: 

Sylvius von Saucken
 Chief Compliance Officer
 Garretson Resolution Group
 6281 Tri-Ridge Boulevard
 Suite 300
 Cincinnati, OH 45140